

The Democratic Party Of Pennsylvania

510 North Third Street • Harrisburg, Pennsylvania 17101 • (717) 238-9381

AOR 1991-25
SUPPLEMENT

August 27, 1991

FAX MAIL (Original to be sent by surface mail)

Mr. Lawrence Noble, General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

Dear Mr. Noble:

I would appreciate it greatly if you would relay to the members of the Federal Election Commission our thanks for the invitation to observe the Commission discussion on Advisory Opinion Request 1991/25 held on Thursday, August 22, 1991 in your headquarters. The candor and frankness of the debate was reassuring to us out in the hinterlands who often look upon rulings from Washington as arbitrary if not capricious.

It is obvious to us that you are giving our request full and due consideration and we appreciate the FEC's decision to hold over its vote for yet another week's deliberation.

Toward that end, I would like to take this opportunity to comment on the Proposed Amendments to AOR 1991/25.

1. The amendments offered to the Commission are in line with the regulations which allow five other states to use different allocation methods because they hold state elections in non/federal election years. Pennsylvania holds all its elections for local offices in non/federal election years. Additionally, in 1991 the Pennsylvania is holding partisan elections for two places on its statewide Commonwealth Court.

2. Pennsylvania Democratic State Committee did not originally use an allocation formula on a 37 percent Federal / 63 percent non-Federal split based on information given to one of my staff at a training workshop held in New York City in January of this year. This split, however, is more appropriate than the current allocation of 43 percent Federal / 56 percent non-Federal we are using for the 1992 election cycle and definitely more accurate than a 50/50 Federal/non-Federal split proposed by your office since the vast majority

of resources by the state party are being spent on these state and local offices and not on the United States Senate race.

3. As Commissioner Josefiak pointed out in the meeting, our state party administrative and overhead expenses are not significantly affected by this special election. In fact, we were maintaining a staff of 12 full-time employees before the tragic plane crash which claimed the life of Senator Heinz and had planned a substantial coordinated campaign focused on tying the campaign activities and printed materials involving our two Commonwealth Court candidates to selected county courthouse races around the state and the pre-eminent Philadelphia mayoralty race.

4. We do not wish to engage the Commission in a debate over the equity of the "point allocation" system because we are joining other state Democratic party organizations in the Association of State Democratic Chairs on this issue. It is, however, worth enumerating for the Commission the other races which will be on the November 5th ballot in Pennsylvania:

- Three county commissioners in virtually every county except for those using the Home Rule Charter council-manic form where we have county council races
- County District Attorney races in each of the 67 counties.
- "Minor" county offices in every county
- Mayoralty races in Cities of the First Class (Philadelphia) and selected Cities of the Third Class
- Two judgeships on Commonwealth Court (statewide, partisan posts)
- Retention votes on two Supreme Court justices, two state Superior Court judges and one Commonwealth Court judge, four of whom are Democrats and who have been endorsed by the Democratic State Committee for re-election.

5. While none of these races (save, arguably, the Philadelphia Mayoralty and District Attorney's race and the Allegheny County [Pittsburgh] commissioners' race) rises to the level of import approaching that of a U.S. Senate special election, all require some level of attention and/or support by the state party.

We have, for instance, conducted two, two-day candidate training workshops for county level candidates and have slated a score of grass-roots campaign worker workshops for county

campaigns during September (even before there was a Senate race). We also have provided each county organization with targeting information for county races and a host of other support activities which came under the heading of "coordinated campaign" prior to Senator Reinz's death. We cannot speak to the efforts of the Republican State Committee but surmise that they, too, have had an equally busy year short of any involvement in the new Federal special election.

6. The paperwork involved in filing an amended report for party expenditures dating back to May 1, 1990 -- which were allocated in good faith at the 43/56 ratio prescribed to us for the 1992 election cycle -- would be unduly burdensome in the midst of what is now a short and heated campaign for U.S. Senate and this host of minor offices. The May 1 date is particularly arbitrary in light of the active U.S. District Court and U.S. Circuit Court of Appeals challenges which, effectively, made null and void the existence of a special federal election until August. You cannot ask us to allocate for something which was not in existence until August.

7. Any paper re-allocation of expenditures would be tantamount to asking us to "fiddle" figures to comply with a regulation instead of striving to meet the intent of the regulation. In fairness and equity, your final allocation must be prospective instead of retrospective in this case. I think any post-facto review of our recent FEC filing will indicate that no great breach of intent of the law has been committed -- certainly no breach significant enough to warrant the expenditure of staff time or consulting accountants fees in excess of the actual expenditures to be re-allocated in the first instance.

8. We have, at the Pennsylvania Democratic State Committee, strived to "over-allocate" Federal dollars for our party's overhead costs. This would make de facto "re-allocation" virtually moot in the case of the Democratic Party. Again, we cannot speak for the Republican State Committee and we have not examined nor do we wish to examine their recent filing.

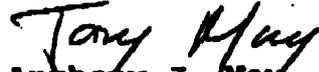
9. Much of the discussion we heard on Thursday among the Commissioners related to concerns they had about the potential influx of "soft" money into the Federal campaign. While this may be a concern in many states, "soft" money -- neither corporate contributions nor union dues money -- may be legally expended by political parties under Pennsylvania state campaign spending laws.

10. We just completed in 1990 a Federal/state coordinated campaign. The record of those party transactions are, of course, already on file with the FEC. A cursory review will show that most of the advertising and direct mail

communication done by the party in 1990 was candidate specific rather than generic in nature. We have no reason to expect that it will be different in 1991 because, candidly, appeals to voters to "toe the party line" are singularly unsuccessful.

We hope these specific observations will be of help to you and the Commission in your final deliberations. We would be greatly pleased if some -- if not all -- of them could be accommodated in the language of your final decision. Short of that, we find the Amended AO as submitted by Commissioners Josefiak and Thomas the most acceptable of the language currently on the table.

Sincerely yours,



Anthony J. May
Pennsylvania Democratic
State Committee

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FAX TRANSMISSION MEMORANDUM

DATE: August 27, 1991

TO: Lawrence Noble

(FAX Phone Number) 202/219-3990

FROM: Anthony May

DEMOCRATIC PARTY OF PENNSYLVANIA (FAX: 717-233-3472)

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